

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUAN DAVILA-BAJANA)	
Plaintiff)	
)	
v.)	C.A. No. 04-253 Erie
)	
TIM HOLOHAN, et al.)	
Defendants)	

ORDER

Plaintiff has submitted for filing a Civil Rights complaint which he seeks leave to prosecute in forma pauperis. The filing fee is \$150.00. Plaintiff does not have sufficient funds in his prison account to pay the entire filing fee. The Prison Litigation Reform Act of 1996, 28 U.S.C. § 1915(b) as amended April 26, 1996, requires that prisoners who cannot pay the full filing fee immediately, submit an initial partial filing fee and the balance in installments. The average monthly deposits into plaintiff's inmate account for the last six months is \$187.47, and his average monthly balance in that account for the past six months is \$37.49. Therefore, in accordance with 28 U.S.C. § 1915(b)(1) his initial filing fee will be twenty percent (20%) of the greater of those two amounts, or \$37.49. The following order is entered:

AND NOW, this 6th day of July, 2005;

IT IS HEREBY ORDERED that leave to proceed in forma pauperis is GRANTED, and the Clerk is directed to file the complaint. Plaintiff's initial filing fee is \$37.49. Within twenty (20) days plaintiff shall authorize payment of the initial filing fee in the amount of \$37.49, together with subsequent monthly installments, by returning to the court one of two attached copies of the notice with the AUTHORIZATION section signed, or shall indicate his intention to withdraw the action by returning the notice with the WITHDRAWAL OF ACTION section signed.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this

date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Juan Davila-Bajana, 47580-053
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Post Office Box 8000
Bradford, PA 16701

Clerk of Courts - Finance Office

Warden - FCI McKean

Inmate Accounting Office